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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,622	10/24/2003	Jerome O. Vogedes	33692.03.3156	8796

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VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N. LASALLE STREET
CHICAGO, IL 60601

EXAMINER

AFSHAR, KAMRAN

ART UNIT	PAPER NUMBER
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2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/692,622

Applicant(s)

VOGEDES ET AL.

Examiner

Kamran Afshar, 571-272-7796

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-8 and 14-24 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 9-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-4, 9-13 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Momose Yasuhior (JP 11-046377 A, herein after Yasuhior) in view of Bleile (U.S. Patent 7,162,228 B2).

With respect to claims 1, 9, Yasuhior discloses an apparatus (See Yasuhior e.g. electronic instrument, apparatus, etc., Page 3, ¶ [0016]) for sender controllable modalities (See Yasuhior e.g. a notification controller decides the modality of the notification output based on the priority of a notification factor and the priority of a user's content of action. Unit (24) identifies a user's content of action when the notification factor occurs. The priority of a notification demand output by a notification demand generator (26) to a notification output unit (28), is obtained corresponding to a notification schedule file (30). A factor identification unit (27) performs the identification of the notification factor having occurred (See Yasuhior e.g. Abstract of Pages 1A-2A), the apparatus comprising: a priority command generator (See Yasuhior e.g. generator 26, Page 3, ¶ [0016]) capable of generating a priority command that indicates a level of priority (See Yasuhior e.g. class of flashing loudspeaker, different messages, a vibration, a predetermined ring tone, one or more beeps, one or more flashing lights, user selectable preferences or setting, etc., Page 3, ¶ [0018]) as related to a communication command and that includes a modality alert command (See Yasuhior e.g. Abstract of Pages 1A-2A, setting priorities for example: priority "-2", "0", "1", "2", etc., Page 3-4, ¶ [0018]). However, Yasuhior does not explicitly disclose that a communication command generator capable of generating the communication command; and a transmitter operably

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coupled to the priority command generator and the communication command generator such that the priority command and the communication command are transmitted to a recipient device. In an analogous field of endeavor, Bleile discloses (See Bleile e.g. similar electronic instrument / apparatus i.e. WCA, Co. 5, Lines 18-21, Co. 6, Lines 23-30) a communication command generator capable of generating the communication command (See Bleile e.g. a message, transmitter, message generator, Co. 5, Lines 21-23, 12, 16, of Fig. 1); and a transmitter operably coupled to the priority command generator and the communication command generator such that the priority command and the communication command are transmitted (See Bleile e.g. Co. 3, Lines 37-45) to a recipient device (See Bleile e.g. 56, 52 of Fig. 2). Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention to provide above teaching of Bleile to Yasuhior providing an apparatus comprising a message generator operable to produce a message which is coupled to a transmitter for transmitting the message to a wireless communication appliance as suggested (See Bleile, Co. 3, Lines 11-19).

Regarding claim 2, it is obvious that an input device operably coupled to the communication command generator such that the communication command generator generates the communication command in response to an input communication command (See Bleile e.g. 22, 26 of Fig. 1, Yasuhior, 21, 28 of Fig. 3, input, output, Page3, ¶ [0016]).

Regarding claim 3, it is obvious that the input device operable coupled to the priority command generator such that the priority command generator generates the modality alert command (See Yasuhior e.g. Abstract of Pages 1A-2A, setting priorities for example: priority "-2", "0", "1", "2", etc., Page 3-4, ¶ [0018]) in response to an input priority command (See Yasuhior e.g. 21, 28 of Fig. 3, input, output, Page3, ¶ [0016]).

Regarding claim 4, Yasuhior discloses the modality alert command includes instructions such that an alert is at least one of the following: a vibration, a predetermined ring tone, one or more beeps, one or more flashing lights, a wake-up command and a defined output multi-modal output modality setting (See Yasuhior e.g. class of flashing loudspeaker, different messages, a vibration, a predetermined ring tone, one or more beeps, one or more flashing lights, user selectable preferences or setting, etc., Page 3, ¶ [0018]).

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Regarding claim 10, it is obvious that prior to generating the communication command, receiving a proximity indicator (See Bleile e.g. Bluetooth communication link, Co. 6, Lines 36-40) indication a location of the recipient device (See Bleile e.g. text message, SMS message, GSM message, Co. 11, Line 58 – Co. 12, Line 11).

Regarding claim 11, Yasuhior discloses the modality alert command includes at least one of the following: a vibratory alert, a ring-tone, a wake-up command, a text-based alert, an illumination alert and a defined output multi-modal output modality setting (See Yasuhior e.g. class of flashing loudspeaker, different messages, a vibration, a predetermined ring tone, one or more beeps, one or more flashing lights, user selectable preferences or setting, etc., Page 3, ¶ [0018]).

Regarding claim 12, it is obvious that the communication command may be at least one of the following: a caller identification, a text message, an auditory message and a visual message See Yasuhior e.g. class of flashing loudspeaker, different messages, a vibration, a predetermined ring tone, one or more beeps, one or more flashing lights, user selectable preferences or setting, etc., Page 3, ¶ [0018], Bleile e.g. text message, SMS message, GSM message, Co. 11, Line 58 – Co. 12, Line 11).

Regarding claim 13, It is obvious that discloses the step of transmitting the communication command and the priority command to the recipient device further includes transmitting the communication command and the priority command (See Yasuhior e.g. Abstract of Pages 1A-2A, setting priorities for example: priority "-2", "0", "1", "2", etc., Page 3-4, ¶ [0018]) to an intermediate server prior to the communication command and the priority command being transmitted to the recipient device (See Bleile e.g. text message, SMS message, GSM message, Co. 11, Line 58 – Co. 12, Line 11).

Allowable Subject Matter

4. Claims 5-8 and 14-24 are allowed.
5. The following is a statement of reasons for the indication of allowable subject matter: 5-8 and 14-24.

Claims 5-8 and 14-24 are allowed for the reasons as set forth in the previous action mailed 11/01/2006.

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Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


- | | |
|---|------------------------------------|
| 1) Helferich (U.S. Pub. No.: 2003/0052769 A1). | 9) Shankarappa (U.S. 5,715,308). |
| 2) Helferich (U.S. Pub. No.: 2005/02151272 A1). | 10) Cronin (U.S. 6,999,731 B2). |
| 3) Eaton (U.S. Pub. No.: 2006/0212585 A1). | 11) Helferich (U.S. 7,039,428 B1). |
| 4) Servi (U.S. Pub. No.: 2005/0245236 A1). | 12) Sierawski (U.S. 6,993,364 B2). |
| 5) Laumen (U.S. Pub. No.: 2003/0073450 A1). | 13) Hayes (U.S. 7,139,806 B2). |
| 6) Hovetiz (U.S. Pub. No.: 2004/0143636 A1). | |
| 7) Furukawa (U.S. Pub. No.: 2001/0019953 A1). | |
| 8) Pezeshki (U.S. Pub. No.: 2003/0228866 A1). | |

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kamran Afshar whose telephone number is (571) 272-7796. The examiner can be reached on Monday-Friday.

If attempts to reach the examiner by the telephone are unsuccessful, the examiner's supervisor, **Eng, George** can be reached @ (571) 272-3984. The fax number for the organization where this application or proceeding is assigned is **571-273-8300** for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kamran Afshar


GEORGE ENG
SUPERVISORY PATENT EXAMINER